



(DN81B)
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1130/b/10

JTK&MDK:eev&cjs:ph

TODAY

stays

DOA:.....Bong, BB0350 – Sale or lease of state-owned real property

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

changes PP 2+3
only

DNOTE

do NOT gen

- 1 AN ACT ...; relating to: sale or lease of state-owned real property, contractual
- 2 operation of state facilities, and management of state-owned heating, cooling,
- 3 and power plants.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, with certain exceptions, DOA may sell or lease state-owned real property if DOA determines that the sale is in the best interest of the state and the Building Commission approves the sale. Any sale may be either on the basis of public bids, with DOA reserving the right to reject any bid in the interest of the state, or negotiated prices and need not reflect fair market value. Also currently, various state agencies have authority to sell real property under their jurisdiction subject to various conditions and limitations. The proceeds of any sales are deposited, credited, or used in various ways as provided by law. DOA's authority generally does not apply to property that another agency has authority to sell. Also, DOA's authority does not operate to permit the closure or sale of any facility or institution the operation of which is required by law. DOA's authority also does not extend to property under the jurisdiction of the Board of Regents of the University of Wisconsin System and certain property under the jurisdiction of DHS at the Northern Center for the Developmentally Disabled. Except as otherwise provided by law, any sale by DOA

may be with or without the approval of the state agency that has jurisdiction over the property. The net proceeds of any sale by DOA are used to retire any outstanding public debt that was incurred to acquire, construct, or improve the property and if the property was acquired, constructed, or improved with federal financial assistance, the proceeds must be used to repay the federal government to the extent required by federal law. If the property was acquired by gift or grant or with gift or grant funds, DOA must adhere to any restriction governing use of the proceeds. DOA must use any remaining net proceeds to retire other outstanding public debt.

Currently, with certain exceptions, the Building Commission may also sell state-owned real property where this authority is not given to another state agency by law, and may transfer land under its jurisdiction among agencies. Sales may be accomplished in a manner similar to the manner that sales are conducted by DOA, except that sales of surplus land having a value of at least \$20,000 are subject to the approval of JCF. However, the Building Commission does not have the authority to sell a parcel of state-owned real property once DOA notifies the commission that an offer of sale or sale with respect to the parcel is pending. If a sale is not completed and no further action is pending with respect to a parcel of property, the authority of the Building Commission to sell the property is restored. The net proceeds of any sales by the Building Commission must be used to retire any public debt that was used to acquire or construct improvements on the property being sold. The remaining net proceeds must be deposited in the budget stabilization fund. Current law also directs the Building Commission to compile biennially and transmit to JCF an inventory of state-owned surplus land.

This bill permits DOA or the Building Commission to sell or lease any state-owned real property unless prohibited by the state or federal constitution or federal law, subject to the approval of the Building Commission. Under the bill, any sale may be either on the basis of public bids, with DOA or the commission reserving the right to reject any bid in the best interest of the state, or on the basis of negotiated prices as determined through a competitive or transparent process. The bill does not apply to sales conducted to enforce an obligation to this state. The bill retains most of the existing exemptions from DOA's sales authority but eliminates the current exemption of the Board of Regents of the University of Wisconsin System and DHS (with respect to the Northern Center) to sell or lease state-owned real property independently of DOA. Under the bill, if DOA or the Building Commission notifies the Board of Regents or DHS that an offer of sale, sale, or lease is pending with the respect to a parcel of property, the Board of Regents or DHS does not have authority to sell or lease that property. The bill eliminates the current exception that exempts sales that would necessitate the closure of a facility or institution which is provided for by law. However, the bill does not repeal any statutes that require the operation of any facilities or institutions. Under the bill, if DOA or the Building Commission sells all the real property that is currently used to operate a facility or institution, the facility or institution would need to continue in operation. Under the bill, except with respect to exempt property, if any agency has authority to sell or lease real property under any other law, the authority of that agency does not apply after DOA or the Building Commission notifies the agency in writing that an offer of sale or sale,

DOA's
sales
are

or a lease agreement, is pending with respect to the property. If the sale or lease is not completed and no further action is pending with respect to the property, the authority of the agency to sell or lease the property is restored. Under the bill, DOA and the Building Commission must first use the net proceeds of any sale or lease to retire any public debt that was used to finance the acquisition, construction, or improvement of the property that is sold. Thereafter, DOA and the Building Commission must use the net proceeds of any sale or lease to pay the costs of federal tax law compliance applicable to the debt. The bill directs DOA and the Building Commission to use the remaining net proceeds of any sale or lease, subject to current requirements, to retire any revenue obligation debt in the fund that was used to acquire, construct, or improve property that was sold and thereafter to pay the costs of federal tax law compliance applicable to the debt, and thereafter, retire other similar revenue obligations. Thereafter, DOA and the Building Commission are directed to use any remaining net proceeds to retire other outstanding public debt. If other outstanding public debt is redeemed, the bill specifies factors to consider in deciding which debt to redeem. The bill provides that if any property that is proposed to be sold by DOA or the Building Commission is co-owned by a nonstate entity, DOA or the commission must afford to the co-owner the right of first refusal to purchase the share of the property owned by the state on reasonable financial terms established by DOA or the commission.

The bill also provides that if DOA sells or leases a state-owned heating, cooling, or power plant, DOA may contract for the operation of any function that is performed by the state on the property. Currently, DOA or any state agency to which DOA delegates authority may enter into a contractual services agreement if the services can be performed more economically or efficiently by contract than by the state directly. The bill provides that this requirement does not apply to contracts with purchasers or lessees entered into by DOA under the bill. The bill provides that if DOA or the Building Commission sells or leases any real property, or if DOA contracts with a purchaser or lessee for the operation of any real property, that was under the jurisdiction of another state agency prior to the sale, lease, or contract, the agency must convey all systems, fixtures, or additional property interests specified by DOA or the Building Commission to the purchaser or lessee of the property on the terms specified by DOA or the Building Commission. The bill also provides that if DOA or the Building Commission sells or leases, or if DOA contracts with a purchaser or lessee, for the operation of a state-owned heating, cooling, or power plant that is under the jurisdiction of a state agency, the agency must convey all real and personal property associated with the plant to the purchaser or lessee on terms specified by the Building Commission ~~to DOA~~. In addition, the bill provides that if DOA or DOA sells, leases, or contracts with a purchaser or lessee for the operation of any facility that is operated by a state agency before the effective date of the sale, lease, or contract, DOA may decrease the authorized full-time equivalent positions for the agency and may lapse or transfer appropriated moneys from any appropriation made to the agency, other than a sum sufficient appropriation, an appropriation of program revenues to the Board of Regents of the University of Wisconsin System, or an

appropriation of segregated or federal revenues, to account for discontinuance of the operation of the facility by the agency.

Finally, the bill modifies the authority of the Building Commission to sell or lease state-owned buildings, structures, and land to parallel the authority of DOA under the bill so that the authority includes property under the jurisdiction of the Board of Regents of the University of Wisconsin System and is not generally limited by sales authority given to state agencies, and so that distribution of sales proceeds is accomplished in the same manner as proceeds of DOA's sales are distributed. The bill deletes the current limitation that certain sales of surplus land are subject to approval of JCF. The bill directs each state agency, no later than January 1, 2014, and biennially thereafter, to submit to DOA an inventory of all real property under its jurisdiction together with the estimated fair market value of each property. Each agency must specifically identify any underutilized assets in the inventory. Under the bill, no later than July 1 following receipt of the inventories, DOA must obtain appraisals of all properties in the inventory that are identified by DOA for potential sale and submit to the Building Commission an inventory containing a location, description, and fair market value of each property identified for potential sale.

Currently, DOA has charge of, operates, and maintains the state capitol power plant and any power plants serving the state office buildings. Under the bill, DOA has charge of, operates, and maintains any heating, cooling, and power plants not operated by another agency or by a purchaser, lessee, or contractor.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.48 (2) (b) 3. of the statutes is amended to read:

2 13.48 (2) (b) 3. The Except as provided in sub. (14) (am), the building
3 commission may lease space in buildings described under subd. 2. to other
4 governmental bodies or to nonprofit associations organized for public purposes and
5 shall charge those bodies or associations an annual rental which shall be not less
6 than the cost of operating, maintaining and amortizing the construction cost of the
7 leased space.

8 **SECTION 2.** 13.48 (14) (title) of the statutes is amended to read:

9 13.48 (14) (title) SALE OR LEASE OF LANDS PROPERTY.

10 **SECTION 3.** 13.48 (14) (a) of the statutes is amended to read:

1 13.48 (14) (a) In this subsection, “agency” has the meaning given for “state
2 agency” in s. 20.001 (1), ~~except that the term does not include the Board of Regents~~
3 ~~of the University of Wisconsin System in s. 16.52 (7).~~

4 **SECTION 4.** 13.48 (14) (am) of the statutes is amended to read:

5 13.48 (14) (am) Except as provided in this paragraph ~~and subject to par. (d),~~
6 the building commission shall have the authority to sell or lease all or any part of a
7 state-owned building or structure or state-owned land, including farmland, where
8 such authority is not otherwise provided to an agency by law real property unless the
9 sale or lease is prohibited under the state or federal constitution or federal law or the
10 sale is conducted as a part of a procedure to enforce an obligation to this state, and
11 may transfer land real property under its jurisdiction among agencies. The
12 commission may sell or lease property under this paragraph with or without the
13 approval of the agency having jurisdiction over the property and regardless of
14 whether the property is included in an inventory submitted under par. (d). The
15 building commission does not have the authority to sell or lease any state-owned real
16 property under this paragraph after the department of administration notifies the
17 commission in writing that an offer of sale or sale or lease agreement with respect
18 to a property is pending under s. 16.848 (1). If the sale or lease is not completed and
19 no further action is pending with respect to the property, the authority of the building
20 commission under this paragraph is restored. Except with respect to property
21 identified in s. 16.848 (2), if any agency has authority to sell or lease real property
22 under any other law, the authority of that agency does not apply after the commission
23 notifies the agency in writing that an offer of sale or sale, or a lease agreement, is
24 pending with respect to the property under this paragraph. If the sale or lease is not
25 completed and no further action is pending with respect to the property, the authority

1 of the agency to sell or lease the property is restored. If the commission sells or leases
2 any state-owned real property under this subsection, the commission may attach
3 such conditions to the sale or lease as it finds to be necessary or appropriate to carry
4 out the sale or lease in the best interest of the state. This paragraph does not apply
5 to real property that is exempted from sale or lease by the department of
6 administration under s. 16.848.

7 **SECTION 5.** 13.48 (14) (b) of the statutes is amended to read:

8 13.48 (14) (b) ~~Subject to par. (d), the~~ The building commission shall sell ~~or lease~~
9 on the basis of either public bids, with the building commission reserving the right
10 to reject any or all bids in the best interest of the state, or on the basis of negotiated
11 prices as determined through a competitive or transparent process. Buildings,
12 structures and land mentioned in this subsection shall be subject to general property
13 taxes levied by those taxing bodies within whose area they lie if used for commercial
14 purposes, and shall be subject to special assessments for public improvements in the
15 same manner and to the same extent as privately owned buildings, structures and
16 land real property, subject to approval of the building commission when required
17 under s. 66.0703 (6).

18 **SECTION 6.** 13.48 (14) (bg) of the statutes is created to read:

19 13.48 (14) (bg) If any property that is proposed to be sold by the commission
20 under par. (am) is co-owned by a nonstate entity, the commission shall afford to that
21 entity the right of first refusal to purchase the share of the property owned by the
22 state on reasonable financial terms established by the commission.

23 **SECTION 7.** 13.48 (14) (br) of the statutes is created to read:

24 13.48 (14) (br) If the building commission sells or leases any real property
25 under par. (am) that was under the jurisdiction of an agency prior to the sale or lease,

1 the agency shall convey all systems, fixtures, or additional property interests
2 specified by the commission to the purchaser or lessee of the property on terms
3 specified by the commission. If the commission sells or leases a state-owned heating,
4 cooling, or power plant that is under the jurisdiction of an agency, the agency shall
5 convey all real and personal property associated with the plant to the purchaser or
6 lessee on terms specified by the commission.

7 **SECTION 8.** 13.48 (14) (c) of the statutes is renumbered 13.48 (14) (c) (intro.) and
8 amended to read:

9 13.48 (14) (c) (intro.) If Except as provided in par. (e), if there is any outstanding
10 public debt used to finance the acquisition of a building, structure or land or the
11 construction, or improvement of a building or structure any property that is sold or
12 leased under par. (b) (am), the building commission shall deposit a sufficient amount
13 of the net proceeds from the sale or lease of the building, structure or land property
14 in the bond security and redemption fund under s. 18.09 to repay the principal and
15 pay the interest on the debt, and any premium due upon refunding any of that debt.
16 Except as provided in s. 51.06 (6), if If there is any outstanding public debt used to
17 finance the acquisition, construction, or improvement of any property that is sold or
18 leased under par. (am), the building commission shall then provide a sufficient
19 amount of the net proceeds from the sale or lease of the property for the costs of
20 maintaining federal tax law compliance applicable to the debt. If the property was
21 acquired, constructed, or improved with federal financial assistance, the commission
22 shall pay to the federal government any of the proceeds required by federal law. If
23 the property was acquired by gift or grant or with gift or grant funds, the commission
24 shall adhere to any restriction governing use of the proceeds. Except as required
25 under par. (e) and ss. 20.395 (9) (qd) and 51.06 (6), if there is no such debt

1 ~~outstanding, or, there are no moneys payable to the federal government, and there~~
2 ~~is no restriction governing use of the proceeds, and if the net proceeds exceed the~~
3 ~~amount required to repay that principal and pay that interest and premium be~~
4 ~~deposited, paid, or used for another purpose under this subsection, the building~~
5 ~~commission shall deposit~~ use the net proceeds or remaining net proceeds in the
6 ~~budget stabilization fund. to pay principal and interest costs on other outstanding~~
7 ~~public debt. For the purpose of paying principal and interest costs on other~~
8 ~~outstanding public debt under this paragraph, the commission may cause~~
9 ~~outstanding bonds to be called for redemption on or following their optional~~
10 ~~redemption date, establish one or more escrow accounts to redeem bonds at their~~
11 ~~optional redemption date, or purchase bonds in the open market. To the extent~~
12 ~~practical, the commission shall consider all of the following in determining which~~
13 ~~public debt to redeem:~~

14 **SECTION 9.** 13.48 (14) (c) 1. to 4. of the statutes are created to read:

15 13.48 (14) (c) 1. To the extent that debt service on the property being sold or
16 leased was paid from a segregated fund, other outstanding public debt related to that
17 segregated fund should be redeemed.

18 2. The extent to which general obligation debt that was issued to acquire, build,
19 or improve the property being sold or leased is subject to current optional
20 redemption, would require establishment of an escrow, or could be assigned for
21 accounting purposes to another statutory bond purpose.

22 3. The fiscal benefit of redeeming outstanding debt with higher interest costs.

23 4. The costs of maintaining federal tax law compliance in the selection of
24 general obligation debt to be redeemed.

25 **SECTION 10.** 13.48 (14) (cm) of the statutes is created to read:

1 13.48 (14) (cm) If there are any outstanding revenue obligations, issued
2 pursuant to subch. II of ch. 18, used to finance the acquisition, construction, or
3 improvement of any property that is sold or leased under par. (am), the commission
4 shall deposit a sufficient amount of the net proceeds from the sale or lease of the
5 property in the respective redemption fund provided under s. 18.561 (5) or 18.562 (3)
6 to repay the principal and pay the interest on the revenue obligations, and any
7 premium due upon refunding any of the revenue obligations. If there are any
8 outstanding revenue obligations, issued pursuant to subch. II of ch. 18, used to
9 finance the acquisition, construction, or improvement of any property that is sold or
10 leased under par. (am), the commission shall then provide a sufficient amount of the
11 net proceeds from the sale or lease of the property for the costs of maintaining federal
12 tax law compliance applicable to the revenue obligations. For the purpose of paying
13 principal and interest costs on other outstanding revenue obligations, the
14 commission may cause outstanding revenue obligations to be called for redemption
15 on or following their optional redemption date, establish one or more escrow accounts
16 to redeem obligations at their optional redemption date, or purchase bonds on the
17 open market. Except as required under par. (e) and ss. 20.395 (9) (qd) and 51.06 (6),
18 if the net proceeds exceed the amount required to be deposited, paid, or used for
19 another purpose under this paragraph, the department shall use the net proceeds
20 or the remaining net proceeds to pay principal and interest costs on other similar
21 revenue obligations.

22 **SECTION 11.** 13.48 (14) (d) 1. of the statutes is repealed.

23 **SECTION 12.** 13.48 (14) (d) 2. of the statutes is renumbered 13.48 (14) (d) and
24 amended to read:

1 13.48 (14) (d) Biennially, beginning on January 1, 1984, each agency having
2 ~~surplus land 2014, each agency shall submit to the department of administration an~~
3 ~~inventory of all real property under its jurisdiction together with the estimated fair~~
4 ~~market value of each property. The agency shall specifically identify any under~~
5 ~~utilized assets in the inventory. No later than July 1 following receipt of the~~
6 ~~inventories, the department of administration shall obtain appraisals of all~~
7 ~~properties in the inventories that are identified by the department for potential sale~~
8 ~~and shall submit to the building commission and the joint committee on finance an~~
9 inventory containing the location, description and fair market value of each parcel
10 ~~of surplus land property identified for potential sale.~~

11 **SECTION 13.** 13.48 (14) (d) 3. of the statutes is repealed.

12 **SECTION 14.** 13.48 (14) (d) 4. of the statutes is repealed.

13 **SECTION 15.** 13.48 (20) of the statutes is amended to read:

14 13.48 (20) RESIDENCE HALLS. The Except as provided in sub. (14) (am), the
15 building commission may approve the sale or lease of state-owned residence halls
16 by the board of regents of the University of Wisconsin System to another state agency
17 or a nonstate nonprofit agency for purposes provided in s. 36.11 (1) (e).

18 **SECTION 16.** 13.48 (22) of the statutes is amended to read:

19 13.48 (22) SALE OR LEASE OF CAPITOL AREA LANDS. The building commission may
20 lease or resell lands acquired in the capitol planning area for public or private
21 redevelopment and may set such conditions of sale or lease as it deems necessary to
22 ensure development compatible with the needs of the community and the state. This
23 subsection does not apply to lands that are authorized to be sold or leased under s.
24 16.848 while an offer of sale, sale, or lease agreement is pending or while the lands
25 are leased.

1 **SECTION 17.** 13.48 (23) of the statutes is amended to read:

2 13.48 (23) LEASE OF SPACE FOR COMMERCIAL USE. ~~The~~ Except as provided in sub.
3 (14) (am), the building commission may lease space in state office buildings for
4 commercial use, including without limitation because of enumeration, retail, service
5 and office uses. In doing so the building commission shall consider the cost and fair
6 market value of the space as well as the desirability of the proposed use. Such leases
7 may be negotiated or awarded by competitive bid procedures. All such leases of space
8 in state office buildings shall provide for payments in lieu of property taxes.

9 **SECTION 18.** 13.482 (2) (a) of the statutes is amended to read:

10 13.482 (2) (a) For the purpose of providing housing for state departments and
11 agencies, including housing for state offices and the completion of the state office
12 building, and to enable the construction, financing and ultimate acquisition thereof
13 by the state, the building commission may acquire any necessary lands, and, subject
14 to s. 13.48 (14) (am), lease and re-lease any lands owned by the state and available
15 for the purpose to the Wisconsin State Public Building Corporation or other nonstock
16 corporation organized under ch. 181 that is a nonprofit corporation, as defined in s.
17 181.0103 (17). The lease and re-lease shall be for a term or terms not exceeding 50
18 years each and shall be made on the condition that such corporation shall construct
19 and provide on such leased lands such building projects, including buildings,
20 improvements, facilities or equipment or other capital items, as the building
21 commission requires, and shall re-lease the same to the building commission upon
22 satisfactory terms as to the rental, maintenance and ultimate acquisition by the
23 state as is in its best interests in the judgment of the building commission. After such
24 leases and re-leases are executed and until the projects are acquired by the state,
25 they shall be operated by the building commission through the department of

1 administration, which shall have charge of such property as provided in ss. 16.85 and
2 16.8511. The building commission shall operate the projects in such manner as to
3 provide revenues therefrom sufficient to pay the costs of operation and maintenance
4 of the project and to provide for the payments due the Wisconsin State Public
5 Building Corporation or other nonstock, nonprofit corporation but if the building
6 commission finds and declares that the housing available in any such project is in
7 excess of the current housing needs or requirements of the state departments and
8 agencies occupying or availing themselves of the space in or capacity of such project,
9 the building commission need not operate such project in a manner to provide
10 revenues therefrom sufficient to pay the costs of operation and maintenance of the
11 project and to provide for the rental payments due the Wisconsin State Public
12 Building Corporation or other nonstock, nonprofit corporation.

13 **SECTION 19.** 13.488 (1) (a) of the statutes is amended to read:

14 13.488 (1) (a) Without limitation by reason of any other statutes except s. 13.48
15 (14) (am), the power to sell and to convey title in fee simple to a nonprofit-sharing
16 corporation any land and any existing buildings thereon owned by the state for such
17 consideration and upon such terms and conditions as in the judgment of the building
18 commission are in the public interest.

19 **SECTION 20.** 13.488 (1) (b) of the statutes is amended to read:

20 13.488 (1) (b) The Except as provided in s. 13.48 (14) (am), the power to lease
21 to a nonprofit-sharing corporation for terms not exceeding 50 years each any land
22 and existing buildings thereon owned by the state upon such terms, conditions and
23 rentals as in the judgment of the building commission are in the public interest.

24 **SECTION 21.** 16.310 (5) of the statutes is amended to read:

1 16.310 (5) NONAPPLICATION. This section does not apply to property that is
2 authorized to be sold under or leased or property that is operated under contract as
3 provided in s. 16.848 while an offer of sale, sale, or lease agreement is pending or
4 while the property is leased or under contractual operation.

5 **SECTION 22.** 16.84 (1) of the statutes is amended to read:

6 16.84 (1) Have charge of, operate, maintain and keep in repair the state capitol
7 building, the executive residence, ~~the light, heat and power plant, any heating,~~
8 cooling, and power plants serving state properties that are not operated by an agency,
9 as defined in s. 16.52 (7), or by a purchaser, lessee, or contractor under s. 13.48 (14)
10 or 16.848 (1), the state office buildings and their power plants, the grounds connected
11 therewith, and such other state properties as are designated by law. All costs of such
12 operation and maintenance shall be paid from the appropriations under s. 20.505 (5)
13 (ka) and (kb), except for debt service costs paid under s. 20.866 (1) (u). The
14 department shall transfer moneys from the appropriation under s. 20.505 (5) (ka) to
15 the appropriation account under s. 20.505 (5) (kc) sufficient to make principal and
16 interest payments on state facilities and payments to the United States under s.
17 13.488 (1) (m).

18 **SECTION 23.** 16.848 (title) of the statutes is amended to read:

19 **16.848 (title) Sale, lease, or contractual operation of certain state**
20 **property or facilities.**

21 **SECTION 24.** 16.848 (1) of the statutes is amended to read:

22 16.848 (1) Except as provided in sub. (2), the department may offer for sale or
23 lease any state-owned real property, if the department determines that the sale or
24 lease is in the best interest of the state, unless prohibited under the state or federal
25 constitution or federal law or the sale is conducted as a part of a procedure to enforce

1 an obligation to this state. Any sale may be either on the basis of public bids, with
2 the department reserving the right to reject any bid in the best interest of the state,
3 or on the basis of negotiated prices as determined through a competitive or
4 transparent process. If the department receives an offer to purchase property offered
5 under this subsection, the department may submit a report to the building
6 commission recommending acceptance of the offer. The report shall contain a
7 description of the property and the reasons for the recommendation. The
8 department may recommend the sale of a ~~parcel of~~ property with or without the
9 approval of the agency, as defined in s. 16.52 (7), having jurisdiction of over the
10 property and regardless of whether the property is included in an inventory
11 submitted under s. 13.48 (14) (d). If the building commission approves the proposed
12 sale, the department may sell the property. Except with respect to property
13 identified in sub. (2), if any agency, as defined in s. 16.52 (7), has authority to sell or
14 lease real property under any other law, the authority of that agency does not apply
15 after the department notifies the agency in writing that an offer of sale or sale, or a
16 lease agreement, is pending with respect to the property under this subsection. If
17 the sale or lease is not completed and no further action is pending with respect to the
18 property, the authority of the agency to sell or lease the property is restored. If the
19 department sells or leases any state-owned real property under this subsection, the
20 department may attach such conditions to the sale or lease as it finds to be necessary
21 or appropriate to carry out the sale or lease in the best interest of the state. If the
22 department sells or leases a state-owned heating, cooling, or power plant under this
23 subsection, the department may contract with the purchaser or lessee for the
24 operation of the plant.

25 **SECTION 25.** 16.848 (1e) of the statutes is created to read:

1 16.848 (1e) If the department sells, leases, or contracts with a purchaser or
2 lessee for the operation of any real property under sub. (1) that was under the
3 jurisdiction of an agency, as defined in s. 16.52 (7), prior to the sale, lease, or contract,
4 the agency shall convey all systems, fixtures, or additional property interests
5 specified by the department to the purchaser or lessee of the property on terms
6 specified by the department. If the department sells, leases, or contracts with a
7 purchaser or lessee for the operation of a state-owned heating, cooling, or power
8 plant that is under the jurisdiction of an agency, as defined in s. 16.52 (7), the agency
9 shall convey all real and personal property associated with the plant to the purchaser
10 or lessee on terms specified by the department.

11 **SECTION 26.** 16.848 (1m) of the statutes is created to read:

12 16.848 (1m) If any property that is proposed to be sold by the department under
13 sub. (1) is co-owned by a nonstate entity, the department shall afford to that entity
14 the right of first refusal to purchase the share of the property owned by the state on
15 reasonable financial terms established by the department.

16 **SECTION 27.** 16.848 (1s) of the statutes is created to read:

17 16.848 (1s) (a) If the department sells, leases, or contracts with a purchaser or
18 lessee for the operation of any facility under sub. (1) that is operated by an agency,
19 as defined in s. 16.52 (7), on the day prior to the effective date of the sale, lease, or
20 contract, the secretary shall, notwithstanding s. 16.50 (1), require submission of
21 expenditure estimates for approval under s. 16.50 (2) for each agency that proposes
22 to expend moneys from any appropriation for the operation of the facility during the
23 fiscal biennium in which the facility is sold or leased or operated under contract.

24 (b) Notwithstanding s. 16.50 (2), the secretary shall disapprove any such
25 estimate for the period during which the facility is not operated by the agency. The

1 secretary may then require the use of the amounts of any disapproved expenditure
2 estimates for the purpose of purchase of contractual services from the facility or
3 payment of the costs of purchasing services that were provided by the facility from
4 an alternative source. If the department sells, leases, or contracts for the operation
5 of a facility under this subsection, the secretary may identify any full-time
6 equivalent positions authorized for the agency that was operating the facility the
7 duties of which primarily relate to the management or operation of the facility, and
8 may decrease the authorized full-time equivalent positions for the agency by the
9 number of positions so identified effective on the effective date of the sale, lease, or
10 contract.

11 (c) Notwithstanding s. 20.001 (3) (a) to (c), the secretary may lapse or transfer
12 to the general fund from the unencumbered balance of appropriations to any agency,
13 other than sum sufficient appropriations or appropriations of program revenues to
14 the Board of Regents of the University of Wisconsin System or appropriations of
15 segregated or federal revenues, any amount appropriated to an agency that is
16 determined by the secretary to be allocated for the management or operation of the
17 facility that was sold or leased or operated under contract effective on the effective
18 date of the sale, lease, or contract.

19 (d) The secretary shall report any action taken under this subsection to the
20 cochairpersons of the joint committee on finance.

21 **SECTION 28.** 16.848 (2) (a) of the statutes is repealed.

22 **SECTION 29.** 16.848 (2) (b) of the statutes is repealed.

23 **SECTION 30.** 16.848 (2) (gw) of the statutes is repealed.

24 **SECTION 31.** 16.848 (4) (a) of the statutes is amended to read:

1 16.848 (4) (a) Except as provided in s. 13.48 (14) (e), if there is any outstanding
2 public debt used to finance the acquisition, construction, or improvement of any
3 property that is sold or leased under sub. (1), the department shall deposit a
4 sufficient amount of the net proceeds from the sale or lease of the property in the bond
5 security and redemption fund under s. 18.09 to repay the principal and pay the
6 interest on the debt, and any premium due upon refunding any of the debt. If there
7 is any outstanding public debt used to finance the acquisition, construction, or
8 improvement of any property that is sold or leased under sub. (1), the department
9 shall then provide a sufficient amount of the net proceeds from the sale or lease of
10 the property for the costs of maintaining federal tax law compliance applicable to the
11 debt. If the property was acquired, constructed, or improved with federal financial
12 assistance, the department shall pay to the federal government any of the net
13 proceeds required by federal law. If the property was acquired by gift or grant or
14 acquired with gift or grant funds, the department shall adhere to any restriction
15 governing use of the proceeds. Except as required under ss. 13.48 (14) (e), 20.395 (9)
16 (qd), and 51.06 (6), if there is no such debt outstanding, there are no moneys payable
17 to the federal government, and there is no restriction governing use of the proceeds,
18 and if the net proceeds exceed the amount required to be deposited, paid, or used for
19 another purpose under this paragraph subsection, the department shall use the net
20 proceeds or remaining net proceeds to pay principal and interest costs on other
21 outstanding public debt.

22 **SECTION 32.** 16.848 (4) (b) 1. of the statutes is repealed and recreated to read:

23 16.848 (4) (b) 1. To the extent that debt service on the property being sold or
24 leased was paid from a segregated fund, other outstanding public debt related to that
25 segregated fund should be redeemed.

1 **SECTION 33.** 16.848 (4) (b) 2. of the statutes is repealed.

2 **SECTION 34.** 16.848 (4) (b) 3. of the statutes is amended to read:

3 16.848 (4) (b) 3. The extent to which general obligation debt that was issued
4 to acquire, build, or improve the property being sold or leased is subject to current
5 optional redemption, would require establishment of an escrow, or could be assigned
6 for accounting purposes to another statutory bond purpose.

7 **SECTION 35.** 16.848 (4) (b) 5. of the statutes is amended to read:

8 16.848 (4) (b) 5. The costs of maintaining federal tax law compliance in the
9 selection of general obligation debt to be redeemed.

10 **SECTION 36.** 16.848 (4) (c) of the statutes is created to read:

11 16.848 (4) (c) If there are any outstanding revenue obligations, issued pursuant
12 to subch. II of ch. 18, used to finance the acquisition, construction, or improvement
13 of any property that is sold or leased under sub. (1), the department shall deposit a
14 sufficient amount of the net proceeds from the sale or lease of the property in the
15 respective redemption fund provided under s. 18.561 (5) or 18.562 (3) to repay the
16 principal and pay the interest on the revenue obligations, and any premium due upon
17 refunding any of the revenue obligations. If there are any outstanding revenue
18 obligations, issued pursuant to subch. II of ch. 18, used to finance the acquisition,
19 construction, or improvement of any property that is sold or leased under sub. (1),
20 the department shall then provide a sufficient amount of the net proceeds from the
21 sale or lease of the property for the costs of maintaining federal tax law compliance
22 applicable to the revenue obligations. For the purpose of paying principal and
23 interest costs on other outstanding revenue obligations, the secretary may cause
24 outstanding revenue obligations to be called for redemption on or following their
25 optional redemption date, establish one or more escrow accounts to redeem

obligations at their optional redemption date, or purchase bonds on the open market. Except as required under ss. 13.48 (14) (e), 20.395 (9) (qd), and 51.06 (6), if the net proceeds exceed the amount required to be deposited, paid, or used for another purpose under this paragraph, the department shall use the net proceeds or remaining net proceeds to pay principal and interest costs on other similar revenue obligations.

SECTION 37. 20.373 (1) (g) of the statutes is amended to read:

20.373 (1) (g) *Administration, operation, repair, and rehabilitation.* From the general fund, all moneys received from the sale of surplus land under 2005 Wisconsin Act 25, section 9105 (14q) except as provided in s. 13.48 (14) (am) or 16.848 (1), to be used for administration of the authority and the operation, repair, and rehabilitation of the Fox River lock system.

SECTION 38. 25.17 (8) of the statutes is amended to read:

25.17 (8) Accept, when necessary to protect a mortgage loan, a quitclaim deed or warranty deed to the mortgaged property in full satisfaction of the mortgage debt, and, subject to prior action under s. 13.48 (14) (am) or 16.848 (1), manage, operate, lease, exchange, sell and convey, by land contract, quitclaim deed or warranty deed, and grant easement rights in, any real property acquired by the board.

SECTION 39. 25.60 of the statutes is amended to read:

25.60 Budget stabilization fund. There is created a separate nonlapsible trust fund designated as the budget stabilization fund, consisting of moneys transferred to the fund from the general fund under ss. ~~13.48 (14) (e)~~, 16.518 (3), and 16.72 (4) (b).

SECTION 40. 36.09 (1) (L) of the statutes is amended to read:

1 36.09 (1) (L) The board shall possess all powers necessary or convenient for the
2 operation of the system except as limited in this chapter and ss. 13.48 (14) (am) and
3 16.848 (1).

4 **SECTION 41.** 36.11 (1) (b) of the statutes is amended to read:

5 36.11 (1) (b) Except as provided in this paragraph and ss. 13.48 (14) (am) and
6 16.848 (1), the board may purchase, have custody of, hold, control, possess, lease,
7 grant easements and enjoy any lands, buildings, books, records and all other
8 property of any nature which may be necessary and required for the purposes, objects
9 and uses of the system authorized by law. Any lease by the board is subject to the
10 powers of the University of Wisconsin Hospitals and Clinics Authority under s.
11 233.03 (13) and the rights of the authority under any lease agreement, as defined in
12 s. 233.01 (6). The board shall not permit a facility that would be privately owned or
13 operated to be constructed on state-owned land without obtaining prior approval of
14 the building commission under s. 13.48 (12). The Subject to prior action under s.
15 13.48 (14) (am) or 16. 848 (1), the board may sell or dispose of such property as
16 provided by law, or any part thereof when in its judgment it is for the best interests
17 of the system and the state. All purchases ~~and sales~~ of real property shall be subject
18 to the approval of the building commission. The provision of all leases of real
19 property to be occupied by the board shall be the responsibility of the department of
20 administration under s. 16.84 (5).

21 **SECTION 42.** 36.11 (1) (e) of the statutes is amended to read:

22 36.11 (1) (e) The Subject to prior action under s. 13.48 (14) (am) or 16.848 (1),
23 the board, with the approval of the building commission, may sell or lease
24 state-owned residence halls to another state agency or nonstate nonprofit agency for
25 purposes of alternate use.

1 **SECTION 43.** 36.11 (28) of the statutes is amended to read:

2 **36.11 (28) LEASE AGREEMENT WITH THE UNIVERSITY OF WISCONSIN HOSPITALS AND**
3 **CLINICS AUTHORITY.** Subject to 1995 Wisconsin Act 27, section 9159 (2) (k), and subject
4 to any prior lease entered into under s. 13.48 (14) (am) or 16.848 (1), the board shall
5 negotiate and enter into a lease agreement with the University of Wisconsin
6 Hospitals and Clinics Authority that meets the requirements under s. 233.04 (7) and
7 shall comply with s. 233.04 (7g).

8 **SECTION 44.** 36.33 (title) and (1) of the statutes are amended to read:

9 **36.33 (title) Sale or lease and relocation of agricultural lands. (1)**
10 LEGISLATIVE INTENT. The legislature finds and determines that, because of the
11 problems resulting from the development of the city of Madison around certain
12 agricultural lands of the University of Wisconsin-Madison, the desirability of
13 consolidating lands used for agricultural instruction, research and extension
14 purposes, the desirability of disposing of agricultural lands no longer needed by the
15 university and the need for land of better quality and of greater quantity for the
16 purpose of improving and expanding agricultural research, it is in the public interest
17 for the board to sell or lease, in whole or in part, and subject to any prior action under
18 s. 13.48 (14) (am) or 16.848 (1), the agricultural lands and improvements thereon
19 owned by the board and located in sections 19, 20 and 30, township 7 north, range
20 9 east, Dane County; sections 25 and 27, township 7 north, range 8 east, Dane
21 County; sections 34 and 35, township 38 north, range 11 east, Oneida County; and
22 section 22, township 22 north, range 8 east, Portage County; and to purchase other
23 agricultural lands outside of the Madison urban area and to construct thereon the
24 necessary buildings and improvements. The foregoing policy determination is made

1 without reference to or intention of limiting the powers which the board may
2 otherwise have.

3 **SECTION 45.** 36.33 (2) (title) and (a) (intro.) of the statutes are amended to read:

4 36.33 (2) (title) METHOD OF SALE OR LEASE; ASSESSMENTS. (a) (intro.) The Subject
5 to any prior action under s. 13.48 (14) (am) or 16.848 (1), the board, in selling or
6 leasing any part of the agricultural lands and improvements thereon, mentioned in
7 sub. (1), shall sell or lease on the basis of either of the following:

8 **SECTION 46.** 36.33 (3) of the statutes is amended to read:

9 36.33 (3) **BUILDING COMMISSION APPROVAL.** The sale, lease and purchase of
10 agricultural lands mentioned in sub. (1) is subject to prior action under s. 13.48 (14)
11 (am) or 16.848 (1) and shall be subject to the approval of the building commission.

12 **SECTION 47.** 41.23 of the statutes is amended to read:

13 **41.23 Sale of excess or surplus property.** The department may acquire
14 excess or surplus property from the department of administration under ss. 16.72 (4)
15 (b) and 16.98 (1) or from the department of transportation under s. 84.09 (5s) and,
16 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), the department may
17 sell the property acquired under this section to any person at a price determined by
18 the department of tourism. All proceeds received by the department of tourism from
19 the sale of property under this section shall be credited to the appropriation account
20 under s. 20.380 (1) (h).

21 **SECTION 48.** 41.41 (7) (b) of the statutes is amended to read:

22 41.41 (7) (b) Lease Subject to any prior action under s. 13.48 (14) (am) or 16.848
23 (1), lease land that is part of the Kickapoo valley reserve to any person for purposes
24 consistent with the management of the reserve under sub. (3), or for agricultural
25 purposes, and lease other land that is acquired by the board for any lawful purpose.

1 **SECTION 49.** 44.015 (1) of the statutes is amended to read:

2 44.015 (1) Acquire any interest in real or personal property by gift, bequest or
3 otherwise in any amount and, subject to prior action under s. 13.48 (14) (am) or
4 16.848 (1), may operate, manage, sell, or rent or convey real estate acquired by gift,
5 bequest, foreclosure or other means, upon such terms and conditions as the board of
6 curators deems for its interests but may not sell, mortgage, transfer or dispose of in
7 any manner or remove from its buildings, except for temporary purposes, any article
8 therein without authority of law.

9 **SECTION 50.** 45.03 (5) (c) 1. a. of the statutes is amended to read:

10 45.03 (5) (c) 1. a. Without limitation by reason of any other provisions of the
11 statutes except s. ss. 13.48 (14) (am) and 16.848 (1), unless otherwise required by law,
12 the power to sell and to convey title in fee simple to a nonprofit corporation any land
13 and any existing buildings owned by the state that are under the jurisdiction of the
14 department for the consideration and upon the terms and conditions as in the
15 judgment of the board are in the public interest.

16 **SECTION 51.** 46.03 (30) (a) of the statutes is amended to read:

17 46.03 (30) (a) To provide for an orderly reduction of state institutional primary
18 psychiatric services the department may approve the institutes entering into
19 contracts with county departments under s. 51.42 for providing primary psychiatric
20 care. If excess capacity exists at state operated mental health institutes, the
21 department shall, subject to s. ss. 13.48 (14) (am) and 16.848 (1), explore the possible
22 sale or lease of such excess facilities to a county department under s. 51.42.

23 **SECTION 52.** 46.035 (2) (a) of the statutes is amended to read:

24 46.035 (2) (a) Without limitation by reason of any other provisions of the
25 statutes except s. ss. 13.48 (14) (am) and 16.848 (1), the power to sell and to convey

1 title in fee simple to a nonprofit corporation any land and any existing buildings
2 thereon owned by, or owned by the state and held for, the department or of any of the
3 institutions under the jurisdiction of the department for such consideration and
4 upon such terms and conditions as in the judgment of the secretary are in the public
5 interest.

6 **SECTION 53.** 46.06 (4) of the statutes is amended to read:

7 46.06 (4) SALES. The department may, with the approval of the building
8 commission, and subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), sell
9 and convey such lands under the jurisdiction of the department as the secretary
10 deems to be in excess of the present or future requirements of the department for
11 either the operation of its facilities or programs, for the maintenance of buffer zones
12 adjacent to its facilities or for other public purposes. The proceeds of such sales are
13 subject to s. 13.48 (14) (c).

14 **SECTION 54.** 51.06 (6) of the statutes is amended to read:

15 51.06 (6) SALE OF ASSETS OR REAL PROPERTY AT NORTHERN CENTER FOR THE
16 DEVELOPMENTALLY DISABLED. The department may maintain the Northern Center for
17 the Developmentally Disabled for the purpose specified in sub. (1), but may sell
18 assets or real property, of the Northern Center for the Developmentally Disabled,
19 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1). If there is any
20 outstanding public debt used to finance the acquisition, construction, or
21 improvement of any property that is sold under this subsection, the department shall
22 deposit a sufficient amount of the net proceeds from the sale of the property in the
23 bond security and redemption fund under s. 18.09 to repay the principal and pay the
24 interest on the debt, and any premium due upon refunding any of the debt. If the
25 property was purchased with federal financial assistance, the department shall pay

1 to the federal government any of the net proceeds required by federal law. If there
2 is no such debt outstanding and there are no moneys payable to the federal
3 government, or if the net proceeds exceed the amount required to be deposited or paid
4 under this subsection, the department shall credit the net proceeds or remaining net
5 proceeds to the appropriation account under s. 20.435 (2) (gk).

6 **SECTION 55.** 84.01 (30) (g) 3. of the statutes is amended to read:

7 84.01 (30) (g) 3. Notwithstanding any other statute except ss. 13.48 (14) (am)
8 and 16.848 (1), the department may sell, at the appraised value, the real estate upon
9 which a park-and-ride facility is or may be located, if the department determines
10 that the sale is in the best interests of the public and the department determines that
11 the real estate will be used in a manner consistent with the state's transportation
12 interests.

13 **SECTION 56.** 84.09 (1) of the statutes is amended to read:

14 84.09 (1) The department may acquire by gift, devise, purchase or
15 condemnation any lands for establishing, laying out, widening, enlarging,
16 extending, constructing, reconstructing, improving and maintaining highways and
17 other transportation related facilities, or interests in lands in and about and along
18 and leading to any or all of the same; and after establishment, layout and completion
19 of such improvements, the department may, subject to any prior action under s. 13.48
20 (14) (am) or 16.848 (1), convey such lands thus acquired and not necessary for such
21 improvements, with reservations concerning the future use and occupation of such
22 lands so as to protect such public works and improvements and their environs and
23 to preserve the view, appearance, light, air and usefulness of such public works.
24 Whenever the department deems it necessary to acquire any such lands or interests
25 therein for any transportation related purpose, it shall so order and in such order or

1 on a map or plat show the old and new locations and the lands and interests required,
2 and shall file a copy of the order and map with the county clerk and county highway
3 committee of each county in which such lands or interests are required or, in lieu of
4 filing a copy of the order and map, may file or record a plat in accordance with s.
5 84.095. For the purposes of this section the department may acquire private or public
6 lands or interests in such lands. When so provided in the department's order, such
7 land shall be acquired in fee simple. Unless it elects to proceed under sub. (3), the
8 department shall endeavor to obtain easements or title in fee simple by conveyance
9 of the lands or interests required at a price, including any damages, deemed
10 reasonable by the department. The instrument of conveyance shall name the state
11 as grantee and shall be recorded in the office of the register of deeds. The purchase
12 or acquisition of lands or interests therein under this section is excepted and exempt
13 from s. 20.914 (1). The department may purchase or accept donations of remnants
14 of tracts or parcels of land existing at the time or after it has acquired portions of such
15 tracts or parcels by purchase or condemnation for transportation purposes where in
16 the judgment of the department such action would assist in making whole the
17 landowner, a part of whose lands have been taken for transportation purposes and
18 would serve to minimize the overall costs of such taking by the public. ~~This~~
19 ~~subsection does not apply to lands that are sold under s. 16.848.~~

20 **SECTION 57.** 84.09 (5) (a) of the statutes is amended to read:

21 84.09 (5) (a) Subject to pars. (b) and (c) and any prior action under s. 13.48 (14)
22 (am) or 16.848 (1), and subject to the approval of the governor, the department may
23 sell at public or private sale property of whatever nature owned by the state and
24 under the jurisdiction of the department when the department determines that the
25 property is no longer necessary for the state's use for transportation purposes and,

1 if real property, the real property is not the subject of a petition under s. 16.310 (2).
2 The department shall present to the governor a full and complete report of the
3 property to be sold, the reason for the sale, and the minimum price for which the same
4 should be sold, together with an application for the governor's approval of the sale.
5 The governor shall thereupon make such investigation as he or she may deem
6 necessary and approve or disapprove the application. Upon such approval and
7 receipt of the full purchase price, the department shall by appropriate deed or other
8 instrument transfer the property to the purchaser. The approval of the governor is
9 not required for public or private sale of property having an appraised value at the
10 time of sale of not more than \$15,000, for the transfer of surplus state real property
11 to the department of administration under s. 16.310, or for the transfer of surplus
12 state personal property to the department of tourism under sub. (5s). The funds
13 derived from sales under this subsection shall be deposited in the transportation
14 fund, and the expense incurred by the department in connection with the sale shall
15 be paid from such fund.

16 **SECTION 58.** 84.09 (5) (c) 1. (intro.) of the statutes is amended to read:

17 84.09 (5) (c) 1. (intro.) Prior Subject to any prior action under s. 13.48 (14) (am)
18 or 16.848 (1), prior to conducting a public sale on a generally marketable surplus land
19 parcel under par. (b), the department shall contact the county, municipality, and the
20 local school district where the land parcel is located and the department of natural
21 resources to solicit interest in acquiring the parcel for public use. Upon notification
22 from the department, the county, municipality, local school district, and department
23 of natural resources must respond to the department, stating their interest in the
24 land for public use, within 60 days. Failure to respond within 60 days constitutes
25 noninterest in the land parcel.

SECTION 59. 84.09 (5) (c) 2. (intro.) of the statutes is amended to read:

84.09 (5) (c) 2. (intro.) Except as provided in subd. 2m. and subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), if a county, a municipality, a local school district, or the department of natural resources expresses interest in acquiring the land for public use, the department shall offer the county, municipality, local school district, or department of natural resources the property at its appraised value if all of the following are true:

SECTION 60. 84.09 (5) (c) 2m. (intro.) of the statutes is amended to read:

84.09 (5) (c) 2m. (intro.) If a county, municipality, or a local school district expresses interest in acquiring the land for public use related to transportation or infrastructure, the department may, subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), offer the county, municipality, or the local school district the property, for less than the appraised value of the property, if all of the following are true:

SECTION 61. 84.09 (5m) of the statutes is amended to read:

84.09 (5m) Subject to the approval of the governor in the manner, scope, and form provided by sub. (5) (a), and subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), the department may convey lands or interests therein acquired pursuant to this section and improvements installed thereon to municipalities within whose limits such lands or interests therein are located. The conveyance of said lands or interests therein and improvements shall restrict the use of the premises by the municipality to the uses for which they were acquired, except that said lands or interests therein declared by the department to be excess may be so conveyed without restrictions as to use. This subsection shall apply only to the sale of property acquired by the department for a project that is completed before May 25,

1 2006. The department may sell property that is acquired by the department for a
2 project that is completed after May 25, 2006, to a municipality under sub. (5) (c), as
3 applicable.

4 **SECTION 62.** 84.09 (6) of the statutes is amended to read:

5 84.09 (6) Lands Subject to any prior action under s. 13.48 (14) (am) or 16.848
6 (1), lands held by any other state department or independent agency may, with the
7 approval of the governor, be conveyed to the department in the manner prescribed
8 by statute and, if none is prescribed, then by a conveyance authorized by appropriate
9 order or resolution of the head of the department or independent agency concerned.

10 **SECTION 63.** 84.09 (9) of the statutes is repealed.

11 **SECTION 64.** 84.40 (2) (a) of the statutes is amended to read:

12 84.40 (2) (a) May Subject to any prior action under s. 13.48 (14) (am) or 16.848
13 (1), may sell and convey to a nonprofit-sharing corporation any public right-of-way
14 available for highway purposes and any existing highways or other improvements
15 thereon owned by the state or under the jurisdiction of the department for such
16 consideration and upon such terms and conditions as the department deems in the
17 public interest.

18 **SECTION 65.** 85.09 (2) (a) of the statutes is amended to read:

19 85.09 (2) (a) The department of transportation shall have the first right to
20 acquire, for present or future transportation or recreational purposes, any
21 property used in operating a railroad or railway, including land and rails, ties,
22 switches, trestles, bridges, and the like located on that property, that has been
23 abandoned. The department of transportation may, in connection with abandoned
24 rail property, assign this right to a state agency, the board of regents of the University
25 of Wisconsin System, any county or municipality, or any transit commission.

1 Acquisition by the department of transportation may be by gift, purchase, or
2 condemnation in accordance with the procedure under s. 32.05. In addition to its
3 property management authority under s. 85.15, the department of transportation
4 may, subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), lease and collect
5 rents and fees for any use of rail property pending discharge of the department's duty
6 to convey property that is not necessary for a public purpose. No person owning
7 abandoned rail property, including any person to whom ownership reverts upon
8 abandonment, may convey or dispose of any abandoned rail property without first
9 obtaining a written release from the department of transportation indicating that
10 the first right of acquisition under this subsection will not be exercised or assigned.
11 No railroad or railway may convey any rail property prior to abandonment if the rail
12 property is part of a rail line shown on the railroad's system map as in the process
13 of abandonment, expected to be abandoned, or under study for possible
14 abandonment unless the conveyance or disposal is for the purpose of providing
15 continued rail service under another company or agency. Any conveyance made
16 without obtaining such release is void. The first right of acquisition of the
17 department of transportation under this subsection does not apply to any rail
18 property declared by the department to be abandoned before January 1, 1977. The
19 department of transportation may acquire any abandoned rail property under this
20 section regardless of the date of its abandonment.

21 **SECTION 66.** 85.09 (4) of the statutes is amended to read:

22 85.09 (4) ACQUISITION AND CONVEYANCE. Upon its own initiative, the department
23 may determine at any time whether the rail property is abandoned, and whether it
24 is in the best interest of the state to acquire the rail property. Within 90 days after
25 being requested by any state agency, any railroad or any county or municipality in

1 which the rail property is located, the department shall, subject to sub. (5) (b), make
2 a determination of the abandonment status and, if found to be abandoned, shall
3 determine whether it is in the best interest of the public to acquire the rail property.
4 If it is determined to acquire the rail property or any part or interest therein, the
5 department shall, within 180 days of the determination of its abandoned status, or
6 the interstate commerce commission's final order permitting the abandonment, or
7 the termination of any efforts to negotiate an agreement for continual operation of
8 rail service on the line, whichever occurs last, determine the fair market value of the
9 rail property and acquire the rail property at a price deemed reasonable by the
10 department or make a relocation order under s. 32.05. In making its determination,
11 the department shall consider long-range potential for use of the rail property for
12 restoration of railroad service and for other transportation related purposes. The
13 department shall solicit the opinions of appropriate state agencies, affected counties
14 and municipalities and other interested persons. The department shall give due
15 consideration to an expressed desire by a state agency or an affected county or
16 municipality to acquire, in whole or in part, the rail property under consideration.
17 Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1) and subject to sub.
18 (6), all or part of any interest in abandoned rail property acquired by the department
19 under this section or under s. 66.941 (7), 1975 stats., may be subsequently conveyed
20 to another state agency or a county or municipality for transportation purposes,
21 recreational purposes, scenic purposes or for the purpose of constructing a
22 correctional institution, or to a railroad for continued railroad transportation
23 operations when the railroad has operated on the rail property for 5 years and the
24 department may make such conveyances for such purposes. Any determination of
25 the department under this section that rail property is not abandoned shall not

1 preclude the undertaking of a subsequent investigation and determination
2 concerning the same rail property or any portion thereof. If at any time subsequent
3 to the acquisition of rail property under this section the department determines that
4 the rail property is not suitable for transportation purposes, recreational purposes,
5 scenic purposes or for the purpose of constructing a correctional institution, or that
6 the rail property or any interest therein may be conveyed to any other person on
7 terms which are not inconsistent with the potential use of the rail property for
8 transportation purposes, recreational purposes, scenic purposes or for the purpose
9 of constructing a correctional institution or which yield a benefit, including financial
10 benefits, to the state which outweighs the benefit derived from the rail property if
11 used for transportation purposes, recreational purposes, scenic purposes or for the
12 purpose of constructing a correctional institution, the department may convey the
13 rail property or such interest therein, subject to any prior action under s. 13.48 (14)
14 (am) or 16.848 (1) and subject to sub. (6). The department shall give notice of its
15 intention to make the conveyance, and state and local units of government shall have
16 the first 6 months in which to exercise their opportunity to acquire the rail property
17 or interest therein. The railroad from which the rail property was acquired shall
18 have the next 6 months in which to exercise its opportunity to reacquire the rail
19 property or interest therein.

20 **SECTION 67.** 85.09 (4i) of the statutes is amended to read:

21 85.09 (4i) DISPOSAL OF RAIL PROPERTY. The department, subject to any prior
22 action under s. 13.48 (14) (am) or 16.848 (1), shall sell at public or private sale rail
23 property acquired under sub. (4) when the department determines that the rail
24 property is not necessary for a public purpose and, if real property, the real property
25 is not the subject of a petition under s. 16.310 (2). Upon receipt of the full purchase

1 price, the department shall, by appropriate deed or other instrument, transfer the
2 rail property to the purchaser. The funds derived from sales under this subsection
3 shall be deposited in the transportation fund, and the expense incurred by the
4 department in connection with the sale shall be paid from the appropriation under
5 s. 20.395 (2) (bq). ~~This subsection does not apply to real property that is sold under~~
6 ~~s. 16.848.~~

7 **SECTION 68.** 85.15 (1) of the statutes is amended to read:

8 85.15 (1) The Subject to any prior action under s. 13.48 (14) (am) or 16.848 (1),
9 the department may improve, use, maintain or lease any property acquired for
10 highway, airport or any other transportation purpose until the property is actually
11 needed for any such purpose and may permit use of the property for purposes and
12 upon such terms and conditions as the department deems in the public interest.

13 **SECTION 69.** 108.161 (7) of the statutes is amended to read:

14 108.161 (7) If any moneys appropriated hereunder are used to buy and hold
15 suitable land, with a view to the future construction of an employment security
16 building thereon, and if such land is later sold or transferred to other use, the
17 proceeds of such sale (or the value of such land when transferred) shall be credited
18 to the account created by sub. (1) except as otherwise provided in s. 13.48 (14) and
19 16.848.

20 **SECTION 70.** 108.161 (9) of the statutes is amended to read:

21 108.161 (9) Any land and building or office quarters acquired under this section
22 shall continue to be used for employment security purposes. Realty or quarters may
23 not be sold or transferred to other use if prior action is taken under s. 13.48 (14) (am)
24 or 16.848 (1) and may not be sold or transferred without the governor's approval. The
25 proceeds from the sale, or the value of realty or quarters upon transfer, shall be

1 credited to the account established in sub. (1) or credited to the fund established in
2 s. 108.20, or both in accordance with federal requirements. Equivalent substitute
3 rent-free quarters may be provided, as federally approved. Amounts credited under
4 this subsection shall be used solely to finance employment security quarters
5 according to federal requirements.

6 **SECTION 71.** 114.33 (6) (a) of the statutes is amended to read:

7 114.33 (6) (a) For the purposes of carrying out this section and ss. 114.35 and
8 114.37, the secretary may acquire by gift, devise, purchase or condemnation any
9 lands for establishing, protecting, laying out, enlarging, extending, constructing,
10 reconstructing, improving and maintaining airports, or interests in lands in and
11 about airports. After completion of the improvements, subject to any prior action
12 under s. 13.48 (14) (am) or 16.848 (1), the secretary may convey as provided in this
13 subsection lands that were acquired under this subsection, but were not necessary
14 for the airport improvements. The conveyances may be made with reservations
15 concerning the future use and occupation of those lands so as to protect the airports
16 and improvements and their environs and to preserve the view, appearance, light,
17 air and usefulness of the airports.

18 **SECTION 72.** 114.33 (10) of the statutes is amended to read:

19 114.33 (10) Subject to the approval of the governor under this subsection and
20 subject to any prior action under s. 13.48 (14) (am) or 16.848 (1), the secretary may
21 sell at public or private sale property of whatever nature owned by the state and
22 under the jurisdiction of the secretary when the secretary determines that the
23 property is no longer necessary for the state's use for airport purposes and, if real
24 property, the real property is not the subject of a petition under s. 16.310. The
25 secretary shall present to the governor a full and complete report of the property to

1 be sold, the reason for the sale, and the minimum price for which the property should
2 be sold, together with an application for the governor's approval of the sale. The
3 governor shall investigate the proposed sale as he or she deems necessary and
4 approve or disapprove the application. Upon approval and receipt of the full
5 purchase price, the secretary shall by appropriate deed or other instrument transfer
6 the property to the purchaser. The funds derived from the sale shall be deposited in
7 the appropriate airport fund, and the expense incurred by the secretary in
8 connection with the sale shall be paid from that fund. ~~This subsection does not apply~~
9 ~~to real property that is sold under s. 16.848.~~

10 **SECTION 73.** 301.235 (2) (a) 1. of the statutes is amended to read:

11 301.235 (2) (a) 1. Without limitation by reason of any other statute except s.
12 ss. 13.48 (14) (am) and 16.848 (1), the power to sell and to convey title in fee simple
13 to a nonprofit corporation any land and any existing buildings thereon owned by, or
14 owned by the state and held for, the department or any of the institutions under the
15 jurisdiction of the department for such consideration and upon such terms and
16 conditions as in the judgment of the secretary are in the public interest.

17 **SECTION 74.** 301.24 (4) of the statutes is amended to read:

18 301.24 (4) SALES. Except where a sale occurs under s. 13.48 (14) (am) or 16.848
19 (1), the department, with the approval of the building commission, may sell and
20 convey such lands under the jurisdiction of the department as the secretary deems
21 to be in excess of the present or future requirements of the department for either the
22 operation of its facilities or programs, for the maintenance of buffer zones adjacent
23 to its facilities or for other public purposes. The proceeds of the sales shall be credited
24 to the state building trust fund.

25 **SECTION 75.** 301.24 (4m) of the statutes is amended to read:

301.24 (4m) CORRECTIONAL INSTITUTION PROPERTY DISPOSITION. In addition to any other requirements under this section, except where a sale occurs under s. 13.48 (14) (am) or 16.848 (1), the department may sell or otherwise transfer or dispose of the property acquired for the correctional institution under s. 46.05 (1o), 1985 stats., only if the sale, transfer or disposition is approved by the joint committee on finance. The department shall submit a plan for any such proposed sale, transfer or disposition to the committee.

SECTION 76. 302.04 of the statutes is amended to read:

302.04 Duties of warden and superintendents. Except as provided in s. ss. 13.48 (14) (am) and 16.848 (1), the warden or the superintendent of each state prison shall have charge and custody of the prison and all lands, belongings, furniture, implements, stock and provisions and every other species of property within the same or pertaining thereto. The warden or superintendent shall enforce the rules of the department for the administration of the prison and for the government of its officers and the discipline of its inmates.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1130/9~~dr~~ 10dr
JTK:eev&cjs:ph

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says

February 14, 2013

⑨ → Sasha Bong: *this draft makes minor nonsubstantive corrections to the analysis.*
This draft reconciles LRB-1023/P3, LRB-1130/6 and LRB-1433/1. LRB-1023, LRB-1130, and LRB-1433 should all continue to appear in the compiled bill.

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d-note

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LEGISLATIVE REFERENCE BUREAU

LRB-1130/10dn
JTK&MDK:eev&cjs:rs

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